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Tax Credit Strategy Fuels Private School Choice Push

By Sean Cavanagh

The political climate in many states has become ripe for private-school choice, and few choice models are proving as popular as tax-credit scholarships. To supporters of those programs, the rationale for creating them is financial and legal, as well as educational.

Unlike traditional voucher programs, which award taxpayer money directly to students to attend private schools, tax-credit programs give individuals or corporations a break on their yearly bills if they contribute to organizations that award private school scholarships to students.

Backers of the programs say they give families, many of them impoverished, a broader range of school options. They also tout the programs' financial benefits, predicting that states will save money, as sufficient numbers of students leave public schools to offset losses to state revenues from tax credits. In addition, supporters of the tax-credit models see them as more insulated from legal challenges than traditional voucher programs, which have been found to violate the constitutions of a number of states.

Yet the tax-credit models also have many detractors, who describe them as vouchers in disguise, and say that estimates of cost savings are speculative and likely exaggerated. Critics also say some states' programs lack transparency, and include loopholes that can allow families and private schools to game the system, at a cost to taxpayers.

Despite those concerns, the programs continue to grow. Ten states have laws on the books allowing tax-credit scholarships, and at least 17 others have considered proposals to create them this year, according to the National Conference of State Legislatures.

The interest is evident in states like North Carolina, where a bipartisan proposal would offer impoverished students private school scholarships of up to \$4,000. The program would be funded with corporate tax credits, which would be capped at \$40 million statewide ini-

tially, with room for growth later.

"Parents need more choices, because students' needs are different, and one size does not fit all," said state Rep. Paul Stam, the Republican majority leader of his chamber and a bill sponsor, in an interview. "Parents want it. It gives them the chance to choose the education that's best for their child."

Arizona Blazes Path

Since Arizona established the nation's first tax-credit scholarship in 1997, the programs have taken hold elsewhere, albeit in different forms. In some states, only corporations are eligible to receive tax credits for donating to scholarship-granting organizations, while in others, individuals can receive them, too. Programs set different eligibility criteria, with many, but not all, limiting participation to impoverished families. They also set different limits on the size of tax credits donors can receive, and on the amount of aid a student can receive.

A number of traditional voucher programs have been struck down in the courts, with judges concluding that they violated provisions in individual states' constitutions barring public funds from going to nonpublic or religious schools. But so far, tax-credit scholarship programs have fared better. Proponents of tax-credit programs have argued that their reliance on tax credits—money that has not yet reached public coffers—protects them from charges that the state is bankrolling religious or nonpublic activity.

Last year, the U.S. Supreme Court gave supporters of tax-credit programs a victory, when it upheld one of Arizona's existing tax-credit programs. A majority on the court ruled that a group of Arizona taxpayers lacked legal standing to challenge a program sustained by the choices of private taxpayers making donations and receiving tax credits—and not dependent on the spending decisions of a government. (Tax Credits for Religious Schools Survive Challenge, April 4, 2011.)

Virginia's Republican attorney gen-

eral, Kenneth T. Cuccinelli II, cited a similar rationale last month in a formal advisory opinion concluding that his state's newly created tax-credit scholarship program does not violate the state's constitution. "The benefit derived from a tax credit does not flow out of the state's general fund," wrote Mr. Cuccinelli, but instead "reduces the tax revenues that would otherwise go into the general fund."

Virginia state Delegate Scott A. Surovell, a Democrat and a critic of the new law, who requested the opinion, disagreed, calling the tax credit a "transmogrified voucher" that saps state revenue.

"It's an accounting gimmick," Mr. Surovell said in an interview, which is the same as "stroking a check to private schools."

Gimmicks Alleged

In other states, recent questions surrounding tax credits have focused primarily on their transparency and performance, not their legality. One such state is Georgia, which established a program in 2008 that has drawn scrutiny from those who question whether it is living up to the letter of the law, and to public expectations.

Last year, the Southern Education Foundation, an Atlanta organization that advocates for low-income children, released a report faulting the program on several fronts.

The foundation noted that Georgia's law requires that students in most grades be "enrolled" in a public school to participate, with the expectation that they will receive a scholarship to switch to private options. But the group's report says some Georgia families are enrolling their children in public schools they will not attend—simply as a means to become eligible for tax-credit-funded awards. The program does not set limits on participating families' income eligibility, though the foundation said it was sold to the public as helping needy populations.

The report also cited instances of pri-

vate schools creating scholarship-granting organizations in order to "arrange financing for educating a limited and narrow range of children," children only attending a single school. The effect is to create a "give-and-you-get-back" system," said Steve Suitts, the vice president of the foundation.

Overall, the program is a "black hole" for information, providing few details on its finances and effectiveness, he added. Mr. Suitts said his organization originally considered taking part in the tax-credit program, but backed away amid concerns about its design.

Georgia state Rep. Earl Ehrhart, the Republican sponsor of the law, called the criticism misleading. Families from many income groups were meant to benefit from the program, he argued—and many are, including those whose children could not have attended private school without scholarships, he said.

Mr. Ehrhart said there was nothing wrong with allowing students to "enroll" in a public school for the purpose of qualifying for a private scholarship, because the goal was to provide aid to as many students as possible. "I knew exactly what I was doing when I wrote it," Mr. Ehrhart said of the law.

As written, the law creates a system that gives "thousands of Georgia children hope and educational opportunity," Mr. Ehrhart added. "It comes closer to full choice than anything else you could do."

Florida Transparency

Some states have set much more demanding standards for public reporting on finances and participation than Georgia does—notably Florida, which some private-school-choice advocates see as a model. State law requires extensive financial and academic reporting on scholarship-granting organizations, participating schools and students, awards provided, and other information.

In addition, Florida's program, created in 2001 and expanded since then, requires that scholarship students take state-approved norm-referenced tests. A 2010 study found the program had a positive effect on the test scores of students in nearby public schools that were forced to compete with participating private schools.

Florida's program is restricted to impoverished families. During the 2010-11 academic year, Florida awarded \$129 million in scholarships to about 35,000 students, who received a maximum of \$4,000 each. Sixty-three percent of the students participating were black or Hispanic. Many of the participating families have incomes that fall well below the federal poverty guidelines, said John F. Kirtley, the chairman of Step Up for Students, a nonprofit scholarship-granting organization in the state.

The program allowed Carol Celis of Lutz, to place her daughter, Camila, in a nearby Christian school in the Tampa area, an option she says would have otherwise been out of financial reach. Ms. Celis, a native of Peru, said her daughter's grades, English ability, and confidence have improved as a result of the individualized instruction the private school offers.

"She's shy. She needs the one-on-one attention," Ms. Celis said. "I saw the problems she would have in another school."

Mr. Kirtley said he knows that some backers of private-school choice worry that imposing new government regulations on scholarship programs will restrict innovation and the operation of a free-market system. He doesn't buy that reasoning. Public confidence wanes when programs are not accountable, he said.

"We're trying to change something that has been the same for 150 years," Mr. Kirtley said, referring to the operation of traditional public schools. "When you do that, you have to play at a higher level. ... We're working in a different arena. It's a zero-tolerance arena."

Savings Debated

Tax-credit programs are operating, and being proposed, in states that have faced major budget shortfalls in recent years. One of the most appealing—and controversial—selling points about tax-credit models is the claim, made in North Carolina and other states, that they will save states money. (A statement from Rep. Stam's office said his proposal "will pay for itself" and cut taxpayer costs.)

The basic calculation is that even as states lose money by awarding tax credits, they save when students leave public

schools for private ones, reducing state, and in some cases, local costs, too. But this assumes that substantial numbers of those participants would not have chosen private schools without the scholarship. For those families, who were only considering private options all along, the state would be covering private school costs that families would otherwise have been forced to pay on their own.

In Florida, a 2010 breakdown by a nonpartisan state policy office concluded that the tax-credit program saved \$36 million for the most recent fiscal year studied. (A subsequent state analysis predicts greater savings in the years ahead.) The office's analysis, however, like those used in other states, relies on certain assumptions. It estimates that 95 percent of students accepting private, tax-credit-funded scholarships would have attended public schools, if not for the program. The estimate is based on U.S. Census data showing a small portion of impoverished students attending private schools.

Kevin Welner, the director of the National Education Policy Center at the University of Colorado at Boulder, who has studied tax-credit programs, is skeptical of calculations from Florida and other states, saying they hinge on guesswork about the motivations of families and myriad unknowns. If different assumptions are used, he said, the bottom line for states can change significantly.

"We simply have no idea how many switchers, or nonswitchers, there are," Mr. Welner said, referring to students enticed to change from public schools to private ones. Estimates of cost savings also wrongly assume that local schools' costs will automatically fall, he said, when some of those expenses, such as building costs, are fixed.

But Mr. Kirtley says the poverty levels of Florida's participating families makes it highly unlikely they could have chosen private schools without the scholarships. The state's reliance on data from the census and other sources gives its estimates credibility, he added in an e-mail: "This is real data," he said, "not speculation."